

REMARKS

Applicant respectfully requests reconsideration.

Claims 1-28, 42, 45, 60- 62, 66, 68, 78 and 82 were previously pending in this application, with claims 26-28, 45, 60- 62, 66, 68, 78 and 82 being withdrawn from consideration. Applicants note that claim 61 was pending prior to the restriction requirement. It was not listed on the Examiner's list of claims. It is canceled herewith.

By this amendment, Applicant is canceling claims 3, 26-28, 45, 60- 62, 66, 68, 78 and 82 without prejudice or disclaimer.

Claims 1-2, 4, 6, 8-9, 11-12, 14, 16-17, 22-24, and 42 have been amended. Support for the amendments is found throughout the specification, at least on page 3, lines 16-19, page 4, lines 1-2, and page 5, lines 5-13. No new matter has been added.

No new claims have been added.

As a result, claims 1-2, 4-25 and 42 are pending for examination with claims 1 and 2 being independent claims.

No new matter has been added.

Objections to the Specification

The Examiner objected to the format of trademarks used throughout the specification. Applicant has made the changes suggested by the Examiner to the specification.

Reconsideration and withdrawal of this objection is respectfully requested.

Double Patenting Rejection

Claims 1-3, 6, 8, 9, 11, 14, 19 and 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claim 63 of co-pending application Serial No. 10/713,790. Applicants point out that the instant patent application is serial number 10/713,790. A double patenting rejection in view of a claim in the same patent application is inappropriate. The Examiner has also mentioned US 20020119166, which is the published version of 09/771,003. It is believed that the Examiner may be referring to US 09/771,003 in the rejection. In view of the uncertainty of the rejection and since the claims in the instant

application are not yet allowable, Applicants defer substantive rebuttal until the instant claims are allowed.

Rejections under 35 U.S.C. § 112

Claims 4, 6, 11, 12, 14, 16, 17, 22-25 and 42 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended the claims to correct the issues raised by the examiner. No new matter has been added.

Reconsideration and withdrawal of this objection is respectfully requested.

Rejections Under 35 U.S.C. § 102

Claims 1-16 and 18-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by McKenney *et al.* (Infect. Immun. 66:4711-20, October 1998).

McKenney *et al.* does not anticipate the amended claims because the compounds described in McKenney *et al.* do not encompass the claimed invention. The claims as amended include the limitation that the glucosamine polymer has an R group that is an acetate or a $-NH_2$. The compound described in McKenney *et al.* is identified as a glucosamine polymer substituted with succinate and acetate (page 4714, 1st column, 2nd paragraph, "In addition, a high quantity of succinate (ranging from 65 to 100% substitution of the glucosamine residues) was identified in both preparations."). Thus, the claimed invention is not anticipated by McKenney *et al.*

Reconsideration and withdrawal of this objection is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claim 25 is rejected under 35 U.S.C. § 103(a) as being unpatentable over McKenney *et al.* as applied to claims 22 and 21 above, and further in view of U.S. Patent Publication No. 2002-0119166 to Pier *et al.*

Claim 25 is not obvious in view of the combination of references for at least the reasons discussed above. Claim 25 ultimately depends from claim 1. McKenney *et al.* and Pier *et al.* describe a glucosamine polymer substituted with succinate and acetate. Neither reference describes a polymer that does not include a succinate substitution. Thus, the combination of references does not produce all of the elements of the claimed invention.

Reconsideration and withdrawal of this objection is respectfully requested.

CONCLUSION

Applicant respectfully requests reconsideration. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Marie Aucoin", is written over a horizontal line.

Date: March 19, 2007
x03.18.07

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